

Appl. No. 10/056,591
Amdt. Dated December 19, 2003
Reply to Office Action of November 4, 2003

IN THE DRAWINGS:

The attached drawing sheet includes changes to Figure 1. This sheet which includes Figs. 1-3 replaces the original sheet including Figs. 1-3. In Fig. 1 element 17 directed to the putter blade has been correctly designated Element 7.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS/ARGUMENTS

By the amendments presented above, Applicant have revised the application to overcome rejections as to form and under 35 U.S.C. §112 to place the application in better form for appeal. It is submitted that the application is now in condition for allowance as to form and definiteness.

With respect to the final rejection of Applicant's claims on substance, Applicant submits that the rejection is improper and supported only on hindsight. Regarding the references to Applicant Sones, and Dick's they fail severally or together to suggest Applicant's claimed invention or to render it obvious.

No suggestion is found in Sones for measuring and fitting a putter length to the individual golfer in any position, let alone in the position recited in the claims. No suggestion is found in Dick's for measuring the putter in the position illustrated in Sones, or the position here claimed, and in fact Dick provides no specific instructions regarding measurement. He does not measure from the top of the hands to anywhere in particular and does not indicate that the hands are on the club during measurement as required in the claims rather than just hanging down.

Dick's doesn't solve any problem. He merely illustrates the age old problem. At Dick's putter store, the collection of many dozens of putters shown comprise putters of a standard length of 35", with a few being available in 34". The instruction of Dick's is to assume ones regular stance. That stance has traditionally been an accommodation to the 35" putter, which automatically provides a wrong stance in almost all cases, and one which would therefore cause one to confirm that his 35" putter is correct, and to order another of the same, regular length of 35".

No doubt the Examiner has examined the many putter offerings of Dick's site and recognizes the standard length of the offerings. This standard has been in place for decades. Dicks is not suggesting, or offering, a change.

At best, Dicks merely suggests measuring a putter some way after assuming ones usual, most likely improper, stance. He does not suggest, or recognize, a modified, special stance. He teaches, and offers, putters, away from any such special stance.

Likewise, Sones does not, as suggested by the Examiner, discuss anything at all about measuring or modifying putter length. A golfer can always, though perhaps uncomfortably, choke down on his putter. He could shorten his putter, or seek out a custom cut putter. Sones does not suggest any of these, nor does Dicks.

In the more recent CAFC decision in *Symbol Technologies v. Opticon*, 19 USPQ2d 1241, 1246 (CAFC 1991) the court observed ... "We do not pick and choose among the individual elements of assorted prior art references to recreate the claimed invention," but rather, we look for "some teaching or suggestion in the references to support their use in the particular claimed combination."... *SmithKline Diagnostics, Inc. v. Helena Laboratories Corp.*, 89 F.2d 878, 887, 8 USPQ2d 1468, 1475 (Fed. Cir. 1988)" Similarly, in *Gillette Co. v. S.C. Johnson & Son*, 16 USPC2d 1923, 1926 (CAFC 1990) the Court affirmed the lower court's requirement that the claims be clearly suggested by the art.

Here, it is submitted that Sones' method, as claimed, is simply not found or suggested or made obvious in either reference or in any proper combination of the references based on the references themselves, rather than Applicant's specification.

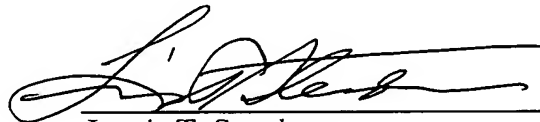
In addition to the failure of the references to teach or suggest Applicant's claimed method, Applicant notes concern about the application of the Dick's website citation. What

date does the Examiner assert for it? Every page of the website shows the same dates, so nothing informs concerning the pages noted in the rejection. An inquiry by telephone to the Dicks site discovers that the date the website was first put up on the Internet is in 2001, well after Applicant's date of invention. While the Dicks reference does not, as noted above, negate patentability of Applicant's claims, even if actually prior art, if the citation continues to be relied upon, Applicant requests the asserted date of publication of the matter relied upon by the Examiner so that an option of an affidavit under 37 CFR §1.131 may be accorded Applicant.

It is submitted that this application is in condition for allowance, as amended, and such action is earnestly solicited.

Respectfully submitted,

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(Reg. #17,074)


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CERTIFICATE OF MAILING

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DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

Figure 1 is a view of a golfer as seen from his right side looking
5 toward a golf hole into which the golfer expects to putt the golf ball 10
using the putter 15 having a shaft 16 and a putter blade 17. In
Figure 1, the golfer is standing on the green with the ball 10 positioned
between his feet approximately as illustrated in Figure 2. The golfer is
shown positioned in an optimum state for putting. As can be seen, the
10 golfer's hip sockets generally indicated at 20 are positioned directly
above the golfer's heels indicated at 21 to provide optimum stability.
The golfer's torso 25 is tilted forwardly, generally about the hips 20
until the golfer's eyes 30 are directly vertically above the ball 10, on
vertical line 31, and the golfer's hands 35 are positioned directly below
15 the shoulder sockets 40, along line 41 and are positioned in front of and
somewhat spaced from the golfer's legs so that swinging motion of the
arms in the vertical plane parallel to the line of ball movement and
including line 41 is free from interference with the golfer's legs and
abdomen. In this condition, it will be observed that the line 41
20 intersects the ground at a distance B from the ball 10, and the upper
end 18 of the shaft 16, and grip 17 is at a distance A above the ground.

In the condition illustrated there, it will be seen that the
appropriate length of the putter from the upper end of the grip to the
bottom of the blade 17 is equal to the hypotenuse of the right triangle
25 formed by legs A, B and C and, accordingly, according to the
Pythagorean Theorem, the length C can be accurately determined by
the formula $A^2 + B^2 = C^2$. An important aspect of the present invention
is the fitting concept that the dimension of the shaft C is determined
after the golfer is in the optimum, preferred position, rather than
30 providing the golfer with an adjustable length club and suggesting that
he, or she, adjust the length until it feels "most comfortable." In fact,

when a golfer assumes the optimum position for putting, as herein described, it may very well feel uncomfortable to him or her until substantial practice has occurred, swinging the putter of the proper length, many times. I have found in practice, and in teaching many
 5 professional and amateur students that, in fact, the classical 35" standard length putter is usually longer than the proper length determined under my system.

The lie angle θ varies with the trigonometric formula $\tan \theta = A/B$; where θ is 72° $\tan \theta$ is 3.08. The lie angle θ may, accordingly, be
 10 found from the standard natural trigonometric functions table or a standard engineering slide rule.

A suitable fitting tool using the theorem noted above is shown in Figure 3. There, the vertical, telescoping arm 50 is adjustable in length by wing screw clamp 54, and grip 17' is likewise adjustable at pivot 19
 15 to provide a grip of variable angle. As illustrated, the 10" long grip is at 18° from the vertical, complimentary of the 72° lie angle considered standard. At 18° , the end 18' of the grip is 3.09" inside the adjustable vertical arm 50 ($\sin 18^\circ = 3.09"/10"$) and, accordingly, the measuring rule 43 on horizontal arm 42 has the starting indication of 7" at 3.91"
 20 from the inside edge of arm 42. The rule 43 is adjustable along arm 42 using wing screw 44 to compensate for a change of measurement from $18^\circ \pm 3^\circ$ which varies the length 3.09" from 3.58" to 2.59, i.e. plus or minus $\frac{1}{2}$ inch. In use, the grip ~~17"~~ 17' may be adjusted at 18° from vertical, to reflect 72° lie, which shows on the indicator 19' as 72° after
 25 the proper set up, described above, is determined, the tool is adjusted to provide the desired shaft length. At this point, the final lie angle will be determined from the measurements A and B. That angle may then be set at the grip indicator 19 and rule 43 by wing screws 19 and 44 respectively. The final measurement may be confirmed by renewing
 30 the set up position with the hands in position and the arm 42 lying on

Fig. 1

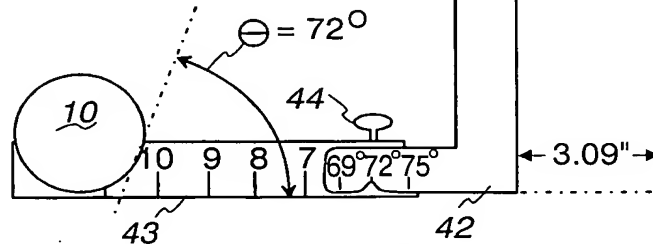
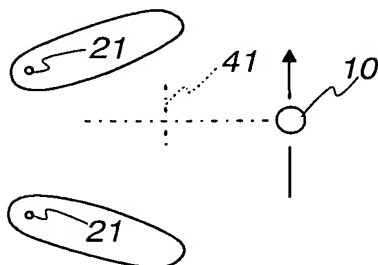


Fig. 3